

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

THE PEOPLE,

Plaintiff and Respondent,

v.

ADRIAN SEVILLA,

Defendant and Appellant.

C051079

(Super. Ct. Nos.
032653, 042317,
043241, 052771,
055665)

In case No. 032653, defendant Adrian Sevilla entered a no contest plea to driving under the influence of alcohol, a misdemeanor (Veh. Code, § 23152, subd. (a)) and admitted an enhancement for excessive blood alcohol (Veh. Code, § 23578) and a prior driving under the influence conviction within seven years. The court granted summary probation for a term of four years.

In case No. 042317, defendant pleaded guilty to possession of cocaine (Health & Saf. Code, § 11350, subd. (a)) and a remaining count was dismissed. The court granted Proposition 36 drug treatment probation (Pen. Code, § 1210.1).

In case No. 043241, defendant entered a negotiated no contest plea to driving under the influence with injury (Veh. Code, § 23153, subd. (a)) with a driving under the influence prior conviction within the past seven years, evading a peace officer while driving recklessly (Veh. Code, § 2800.2) and driving on a suspended or revoked license, a misdemeanor (Veh. Code, § 14601.2, subd. (a)) in exchange for no state prison at the outset and reinstatement on probation in case Nos. 032653 and 042317. Another count, hit and run with injury, was dismissed. The court granted probation in case No. 043241. Defendant also admitted violating probation in case Nos. 032653 and 042317 and was reinstated on probation in those cases.

Defendant subsequently violated probation and entered the following pleas and admissions: in case No. 052771, defendant pleaded no contest to driving under the influence of alcohol or drugs within 10 years of a prior driving under the influence conviction (Veh. Code, §§ 23152, subd. (a), 23550.5, subd. (a)); in case No. 055665, defendant entered a plea of no contest to driving under the influence of alcohol or drugs within 10 years of three or more driving under the influence convictions (Veh. Code, §§ 23152, subd. (a), 23550, subd. (a)) and to transporting methamphetamine (Health & Saf. Code, § 11379, subd. (a)); and in case Nos. 032653, 042317 and 043241, defendant admitted violating probation. The remaining counts were dismissed. Defendant entered his pleas and admissions in exchange for a stipulated, aggregate state prison sentence of four years.

The trial court sentenced defendant to state prison accordingly.

Defendant filed a notice of appeal citing all of the foregoing case numbers.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

This court has no jurisdiction in case No. 032653, which was filed as a misdemeanor and always was a misdemeanor case; we will order it transferred to the appellate division of the superior court. (Gov. Code, § 68915; *People v. Nickerson* (2005) 128 Cal.App.4th 33, 36-40; *People v. Shoup* (2001) 89 Cal.App.4th 420, 421.)

The abstract of judgment requires correction--for count 1 in case No. 043241, the abstract erroneously reflects defendant was convicted of violating Vehicle Code section 23152, subdivision (a). Defendant was convicted of violating Vehicle Code section 23153, subdivision (a). We will order the abstract of judgment corrected accordingly.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

Jurisdiction in case No. 032653 is transferred to the appellate division of the superior court. The trial court is directed to prepare a corrected abstract of judgment to reflect that defendant was convicted of violating Vehicle Code section 23153, subdivision (a), not Vehicle Code section 23152, subdivision (a), in count 1 of case No. 043241, and to forward a corrected copy to the Department of Corrections and Rehabilitation. The judgment in case Nos. 052771, 055665, 043241 and 042317 is affirmed.

HULL, J.

We concur:

SCOTLAND, P.J.

DAVIS, J.